

REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Claims 2-6, 8-11, 13-23, 25-31, 33-41 will be pending in the present application.

Applicant notes with appreciation the Examiner's indication that claims 2-6, 8-11, 18, 19, 30, 31, and 36-41 are allowed.

Claims 13-17, 20-23, 25-29, and 33-35 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,542,128 to Lomas ("the '128 patent"). Applicant respectfully traverses this rejection for the reasons presented below.

Independent claims 13, 21, 25, and 33 have been amended above to clarify the features of the present invention. In particular, all of these claims have been amended to define the plurality of contoured panels as each having (1) an upper edge having a length, (2) a lower edge having a length, (3) an interior edge having a length, and (4) an exterior edge having a length. The interior edge is the edge that is located proximate to a top of a patient's head when the headgear is being worn by a patient. See, e.g., edge 48 in FIG. 2 of the present application. The exterior edge is generally opposite the interior edge. See, e.g., edge 48 in FIG. 2 of the present application. The interior edge is generally concave-shaped and the exterior edge is generally convex-shaped. Finally, the contoured panels are arranged such that the interior edges of adjacent contoured panels face each other and are spaced apart from each other such that a gap is defined between the interior edges of adjacent contoured panels. This gap accommodates the top portion of the patient's head. Applicant respectfully submits that the cited references do not teach or suggest a headgear having these features.

For the reasons presented above, applicant respectfully submits that independent claims 13, 21, 25, and 33 are not anticipated or rendered obvious by the cited references. In addition, claims 14-17, 20, 22, 23, 26-29, 34, and 35 are also not anticipated or rendered obvious due to their dependency from independent claims 13, 21, 25, or 33. Accordingly, applicant

respectfully requests that the above rejection of claim 13-17, 20-23, 25-29, and 33-35 be withdrawn.

It should be noted that the applicant has not addressed each rejection of the dependent claims. Any rejection of a dependent claim not specifically addressed is not to be construed as an admission by the application of the correctness of that rejection. Rather, the applicant believes that the independent claims are patentably distinguishable over the cited references for the reasons noted above, so that the rejection of the dependent claims need not be addressed at this time. Applicant reserves the right to address the rejection of any dependent claim at a later time should that become warranted.

This response is being filed within the three-month statutory response period which expires on October 7, 2009. In addition, no additional claim fees are believed to be required as a result of the above amendments to the claims. Nevertheless, the Commission is authorized to charge any fee required under 37 C.F.R. §§ 1.16 or 1.17 to deposit account no. 14-1270.

All objections and rejections have been addressed. It is respectfully submitted that the present application is in condition for allowance and a Notice to the effect is earnestly solicited.

Respectfully submitted,

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Note: The Commissioner is authorized to charge any fee required under 37 C.F.R. §§ 1.16 or 1.17 to deposit account no. 14-1270.